

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

ERIC ROSHAUN THURAIRAJAH

PLAINTIFF

vs.

No. 16-2123

**THE CITY OF FORT SMITH,
ARKANSAS, et al.**

DEFENDANT

PLAINTIFF'S STATEMENT OF UNDISPUTED MATERIAL FACTS

COMES NOW, Plaintiff Eric Thurairajah, by and through his attorney, W. Whitfield Hyman of King Law Group PLLC, for his Statement of Undisputed Material Facts states:

1. Mr. Thurairajah, is a young man of East Indian descent who was in his early 20s at the time of the incident. Plaintiff's Exhibit A, Deposition of Eric Thurairajah, pp. 8, ¶24 – 9, ¶1; 11, ¶19.
2. That the incident took place on June 2, 2015, on Grand Avenue in Fort Smith, sometime in the early evening. Plaintiff's Exhibit B, the Police Report by Cross Defendant Lagarian Cross. Plaintiff's Exhibit C, the Arkansas State Police Radio Transmission Log for June 2, 2015. Plaintiff's Exhibit D, Plaintiff's Responses to Interrogatories, No. 2, No. 4, No. 5, No. 6, No. 7, No. 9, No. 10, and No. 14.
3. That Trooper Cross was standing outside his patrol car on Grand Avenue with the blue lights on his patrol car activated speaking with a younger adult female. Plaintiff's Exhibit A at 37, ¶7-12.
4. There is no record of Trooper Cross being involved in a routine traffic stop except for Defendant's Affidavit, as evidenced by the radio logs and Mr. Thurairajah's observations. Plaintiff's Exhibit A at 37, ¶¶13-20.

5. As Mr. Thurairajah drove past the Defendant, Mr. Thurairajah yelled, “Fuck you,” from his car as he continued to drive away at 35 miles per hour, in the direction of a nearby gas station. Plaintiff’s Exhibit A at pp. 38 ¶19- 39 ¶10) 41, ¶9-14
6. Mr. Thurairajah was driving a 2008 Chevrolet Cobalt automobile. Defendant’s Exhibit E, Police Report.
7. Mr. Thurairajah was alone and had no passengers. Plaintiff’s Exhibit A, at p. 58 ¶10-11.
8. Plaintiff was approximately fifty (50) yards away from Defendant Cross when yelling out to him, five lanes of traffic and an entire front yard away. Plaintiff’s Exhibit A, at 40, ¶2-14.
9. Defendant Cross searched Plaintiff Thurairajah and his vehicle. Plaintiff’s Exhibit E, Affidavit of Eric Thurairajah.
10. Defendant Cross called a tow truck that arrived on scene and towed Plaintiff’s vehicle. Plaintiff’s Exhibit A, 49, ¶21; 50, ¶6-8; Plaintiff’s Exhibit E.
11. Plaintiff claimed tow truck company charged \$325 for the tow (*Plaintiff’s counsel must correct this statement, as a receipt from the tow truck company indicates \$268.88) . Plaintiff’s Exhibit E.
12. Defendant Cross transported Mr. Thurairajah to the Sebastian County Jail, where Defendant Cross completed paperwork for a Disorderly Conduct charge, and was within eyeshot of Plaintiff for most of the time. Plaintiff’s Exhibit A, pp. 51-56, notably pp. 54 ¶18 – 55 ¶10; Plaintiff’s Exhibit E.
13. Mr. Thurairajah was never suspected of any other crime. Defendant’s Exhibit E, Police Report.

14. As a result of the Disorderly Conduct Charge, Mr. Thurairajah was detained at the county jail for about 8 hours from June 2nd, 2015 to June 3rd, 2015. Plaintiff's Exhibit A, at 55 ¶¶12-14.
15. Mr. Thurairajah hired an attorney to fight the charges, the attorney charged \$1,000, and Mr. Thurairajah was found not guilty of Disorderly Conduct. Plaintiff's Exhibit E.
16. Mr. Thurairajah attended counseling before and after this arrest. Plaintiff's Exhibit A, pp. 95, ¶18 -104, ¶12; Plaintiff's Exhibit E.
17. Mr. Thurairajah was prescribed Atrax and Prozac after this arrest. Plaintiff's Exhibit E.
18. Mr. Thurairajah was diagnosed with mental disorders that had not been diagnosed prior to his arrest. Plaintiff's Exhibit E.
19. Mr. Thurairajah had already been diagnosed with ADHD and Generalized Anxiety Disorder prior to this arrest. Plaintiff's Exhibit E.
20. Mr. Thurairajah continues to suffer both economically and psychologically from Defendant Cross's treatment of him. Plaintiff's Exhibit E.

Respectfully submitted,
W. WHITFIELD HYMAN
ATTORNEY FOR PLAINTIFF

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CERTIFICATE OF SERVICE

I, W. Whitfield Hyman, hereby certify that on this 29th day of June, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall send notification to any participants.

/s/ W. Whitfield Hyman
W. Whitfield Hyman